

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	CRIMINAL NO. 05-10154-MLW
v.)	
)	
JOHN J. DIAMONT, JR.,)	
Defendant)	

GOVERNMENT'S MOTION FOR TIME
TO RESPOND TO DEFENDANT'S MOTIONS

Now comes the United States, by its attorney, pursuant to Fed. R. Crim. P. 47, and requests an opportunity to respond to the defendant's recent motions before the Court acts on them and states:

1. On August 22, 2005, the defendant filed a motion for pre-trial subpoenas returnable on October 31, 2005 and a motion for permission to file under seal and ex parte portions of the memorandum in support of that motion.

2. At the time these motions were filed counsel for the United States was on vacation and did not return to the office until today.

3. On August 24, 2005 the court granted defendant's motion to seal portions of his memorandum in support of his motion for pre-trial subpoenas and directed the defendant to file an un-redacted version of the memorandum with the Court. The United States never had an opportunity to respond to defendant's motion to seal.

4. On August 29, 2005, the United States received electronic notice of an order of reference from the District Judge to the Magistrate Judge, referring to the defendant's motion for pre-trial subpoenas as an "ex parte" motion.

5. The United States requests an opportunity to respond to defendant's motions to seal and for pre-trial subpoenas. Local Rule 7.1(B)(2) provides that an opposition to such motions would normally be due 14 days after service of the motions. Since the undersigned was on vacation last week, the United States requests until September 12, 2005 to respond to the defendant's motions to seal and for pre-trial subpoenas.

6. The United States has spoken to counsel for the defendant who advised that the defendant does not object to the Government's request for an extension until September 12, 2005 to respond to the defendant's motion for pre-trial subpoenas, but the defendant does not agree to extending the time for the United States to respond to the defendant's motion to seal, because that motion has already been granted.

WHEREFORE, the United States requests that the Court enter an order providing that the United States shall have until

September 12, 2005 to file an opposition or otherwise respond to defendant's motions to seal and for pre-trial subpoenas.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By:

/s/ Peter A. Mullin
PETER A. MULLIN
Assistant U.S. Attorney

Dated: August 29, 2005

CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)

Pursuant to L.R. 7.1(A)(2), the undersigned certifies that the United States has conferred with counsel for the defendant in a good faith attempt to resolve or narrow the issues presented in this motion.

/s/ Peter A. Mullin
PETER A. MULLIN
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I, Peter A. Mullin, Assistant U.S. Attorney, hereby certify that a true copy of this document was served on counsel of record for the defendant by electronic filing this 29th day of August, 2005.

/s/ Peter A. Mullin
PETER A. MULLIN
Assistant U.S. Attorney